Summer Examinations 2016

LAW301316N

Module Title Medical Law
Level Six
Time Allowed One hour and forty minutes

Instructions to students:

- Enter your student number not your name on all answer books.
- Answer two out of seven questions.
- All questions are equally weighted.
- Begin each answer in a separate answer book; label each answer book clearly with the number of the question you are answering.

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Answer two out of seven questions.

1. In deciding whether an individual patient should be given medical treatment explain whether there is a legal duty to do so and evaluate the ethical models which could be used to make such a decision.

2. A number of problems have arisen with patients at the Naseby NHS Hospital.

Aimi is a physical education teacher in a school. She develops a pain in her chest and goes to the hospital and tells Baljit, the consultant. Aimi takes off her blouse and bra and Baljit listens to her chest with his stethoscope. He then feels her breasts and remarks, “At least you haven’t got breast cancer”. He tells Aimi that there is a partial blockage of an artery to her heart and that she will need an operation to insert a tube. Aimi agrees to Baljit taking a blood sample and to the operation. He does not tell her of a 1 in 5,000 chance of the artery being damaged during the operation which would result in her becoming disabled. One of the tests on Aimi’s blood is a pregnancy test which proves positive. The operation is carried out without negligence but the risk materialises and as a result Aimi is confined to a wheelchair. She is also told that she is pregnant.

Carl is aged 35 and last year he made an advance directive which stated, “If I ever go to hospital I want the best treatment and must be kept alive”. At the beginning of this year Carl bought a house and his girlfriend Beth moved in to live with him. Shortly after this Carl made a lasting power of attorney giving Beth the power to make decisions for him. Three months ago Carl fell down the stairs at home and suffered a head injury. As a result he found it difficult to understand information and could no longer work as a postman. Recently Carl was involved in a car accident and was admitted to the hospital. Baljit told him that he needed to have one of his legs amputated and that there was a high chance that he would die if he did not. Carl refused to consent saying, “I won’t be able to play football with one leg”. Beth has also refused to agree to the amputation.

Dinesh, aged 9, was admitted to the hospital and diagnosed with lung cancer. His mother Erina consented to an operation to remove the tumour. Following the operation Baljit said that Dinesh would need a course of radiotherapy for six weeks. Erina did not want him to be subjected to a long course of painful treatment and she refused to consent to it. Erina told Baljit she was taking Dinesh for a walk in the hospital grounds. She took him to the airport and flew to Malaga in Spain to a private hospital offering a new method of treatment which only takes two weeks.

Advise the hospital of the legal position in respect of Aimi, Carl and Dinesh.
3. A number of problems have arisen at Fawsley NHS Hospital.

Faria was at home when she complained of pains in her stomach and collapsed. Her son called an ambulance, told the operator her symptoms and an ambulance arrived 15 minutes later. Gill, a paramedic, confirmed the symptoms with Faria but she did not ask about her medical history which involved many years of stomach problems. Gill gave Faria some pain killers. Faria was then taken to the hospital. She was examined by Hibah, the consultant who was unsure whether it was appendicitis or a stomach ulcer. Hibah carried out an exploratory operation and found that it was a stomach ulcer. The ulcer had been made worse and started bleeding, partly caused by the pain killers and partly by the delay in carrying out the exploratory operation. As a result Faria had to stay in hospital for a month rather than a week.

Ivy, a 19 year old university student, was suffering from depression and was admitted to the hospital as an emergency after taking an overdose of headache tablets. She was treated by Hibah and then put on a ward with 20 other patients under the supervision of Jane, a nurse, who had recently qualified. Due to budget cuts the number of nurses on the ward at night had been cut to two. One night when the nurses were busy attending to other patients Ivy sneaked out of the ward, jumped under a bus and was killed. Her mother Kate is angry with the hospital.

Len was gardening when he stood on an upturned garden rake and cut his foot. He went to see Mary his general practitioner. She cleaned and dressed the wound and gave him some antibiotics to take. She also told him to come back immediately if it got any worse. A week later Len’s foot swelled up but he waited a few days before going to the hospital. He was examined and it was discovered that bacteria in his wound had caused tetanus. Although most general practitioners would have given an anti-tetanus injection some general practitioners would have acted as Mary did.

Advise Faria, Kate and Len of any claims they may make in negligence.

4. Neha is a general practitioner and a number of issues have arisen with patients at her surgery.

Olga is a single mother with a five year old daughter, Penny. They arrived at the surgery late one evening. Olga seemed agitated, smelt of alcohol and had cuts on her face and arms. Penny had bruises on her face. Olga told Neha that she had been cut when she dropped a milk bottle as she was putting it on the doorstep and that Penny had tripped over in the street and landed on her face. The next day Olga heard on the local television news that the previous evening a pedestrian had been knocked down and killed near her surgery by a car driver who did not stop. Neha suspects that Olga was the driver.
Ruth, a 15 year old school girl, attended the surgery. Ruth seemed very upset and told Neha that she was pregnant and she asked to be referred to the local hospital for an abortion. Ruth demanded that Neha must not tell Ruth’s mother about the abortion. While examining her Neha noticed that she had the name ‘Pete’ branded on her bottom. Neha asked about it and Ruth said that it was her boyfriend’s name and that she had asked him to do it. Ruth also said she was so angry with her boyfriend for not using contraception that she was going to kill him.

Sara and her father are both patients at the surgery. Sara attended an appointment and told Neha that she wanted to have a baby. Sara said that she was worried that there might be Huntington’s disease in the family, which is a genetic disease which affects the brain. If Sara’s worries proved correct there would be a fifty percent chance that any baby she had would have the disease. Sara therefore asked Neha to disclose her father’s medical records.

Advise Neha of her legal position in respect of Olga, Penny, Ruth and Sara.

5. Critically analyse the law on surrogacy and consider what reforms, if any, should be made to it.

6. A number of issues have arisen at the Wessex NHS Hospital.

Tom, a wealthy businessman, suffers from kidney disease. He advertises for a kidney donor on the internet and is contacted by Vikram, an immigrant, who agrees to give him a kidney for £20,000 to cover his expenses. Tom arranges for the transplant to be carried out by Wendy, a surgeon at the hospital.

Zara is 12 and her younger sister Alice is 9 and they have a very close relationship. Alice has developed an incurable lung disease and she will die if she does not have a partial lung transplant. Becky, their mother, takes them to the hospital to see Wendy. Becky suggests that Zara could donate a segment of one of her lungs to Alice. Zara tells Wendy that she would like to donate part of her lung to her sister but she is scared of having an operation.

Cath is admitted to the intensive care unit of the hospital after being knocked down by a lorry. Dot, the nurse, tells Cath that her injuries are so severe that she is dying. Cath tells Dot that she wants her organs to be used for transplants and then she falls into a coma and dies. Cath’s step sister Eli and Flo, an old friend she has known for 20 years, both arrive at the hospital. Eli said that Cath always insisted that when she died her organs must not be taken for transplants and Eli refused to consent to any transplant. However, Flo said that Cath had recently told her that she wanted her organs to be used for transplants.

Explain the legal position in the above situations.
7. It is time that the law recognised property rights in the body or in body parts which have been removed.

Discuss.

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